

C. REMARKS AND ARGUMENTS**1. Amendments to the Claims**

Claim 1 has been amended to correct the informality (punctuation error) identified in ¶ 3 of the Final Action.

2. Claim Rejections on Grounds of Obviousness under 35 U.S.C. § 103

In the Final Action, the Examiner rejected Claim 1 for obviousness based on the Li reference (“The Effects of STEF in Finely Parallel Multithreaded Processors” © 1995) in view of the ARM reference (Furber: “ARM System-on-Chip Architecture”, Second Edition © 2000). The Examiner rejected Claims 2 -20 for obviousness based on Li in view ARM and further in view of one or more of the following additional references -- USPN 5,933,627 (Parady), USPN 4,556,951 (Dickman), USPN 6,101,569 (Miyamoto et al.), USPN 6,272,616 (Fernando et al.), USPN 5,784,552 (Bishop et al.), European Patent Application No. 1091292 (Zammit et al.), and USPN 4,155,115 (Wilske).

Applicants respectfully traverse the obviousness rejections set out in the Final Action on the basis that the claimed invention has enjoyed significant commercial success, and that this commercial success has been directly derived from the claimed invention. Enclosed in support of this position is the Declaration of Jason Gosior dated November 5, 2006, pursuant to 37 C.F.R. § 1.132.

Mr. Gosior’s Declaration deposes to the fact that since April 2002, the Assignee, Eleven Engineering Inc. (“EEI”), has sold and delivered a total of 865,908 “XInC”™ microcontrollers, incorporating processor architectures as currently claimed, to at least 13 commercial customers including the Bose® Corporation, Logitech, Oregon Scientific, and Samsung, for incorporation into digital wireless audio (DWA) systems and wireless Ethernet links. Applicants submit that this evidence is sufficient to establish that microcontrollers incorporating the claimed processor architecture have achieved significant commercial success.

Mr. Gosior’s Declaration also provides evidence, based on direct communications from customers, that the customers’ decisions to purchase EEI’s DWA systems incorporating XInC microcontrollers was made after the customers’ own comparative testing programs establishing

that EEI's DWA system produced better QoS (quality of service) than the tested competitor systems. Mr. Gosior's Declaration goes on to present a technical explanation as to why and how EEI's DWA system produces better QoS than competitor systems, directly as a result of the use of processor architecture in accordance with the claimed invention.

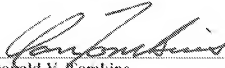
In the Applicants' submission, it necessarily follows from the information set out in Mr. Gosior's Declaration that the commercial success enjoyed by EEI's DWA system is a direct result of the claimed processor architecture. In other words, if EEI's customers purchased EEI's DWA system because of its superior QoS, and if this superior QoS is a direct result of the claimed processor architecture, then the demonstrated commercial success of EEI's DWA system has been satisfactorily shown to have a clear nexus with the claimed invention, and to have been derived directly from the claimed invention (as opposed to factors extraneous to the merits of the claimed invention).

In conclusion, the Applicants respectfully submit that the evidence of commercial success set out in Mr. Gosior's Declaration is sufficient to establish that the claimed invention is not obvious, notwithstanding theoretical analyses which might reach the opposite conclusion based on the combining of features from multiple prior art references. It is well known in the field of the invention that it is desirable to maximize QoS. As demonstrated by the evidence presented in Mr. Gosior's Declaration, independent third-party testing has established that wireless audio systems incorporating the claimed processor architecture provide higher QoS than competing systems. If the claimed processor architecture had in fact been obvious to persons of ordinary skill in the field of the invention at the time of the invention, it would be reasonable to expect that someone else would have devised the claimed architecture before that time. It might be tempting, with the benefit of hindsight, to say that the claimed architecture was obvious, merely because various features of the claimed architecture can be found in various prior art publications. However, the Applicants respectfully submit that such a conclusion would be clearly improper in view of the readily apparent fact that no one else developed the same architecture before the Applicants did, and in view of the fact, as established by the present submissions, that DWA products incorporating the claimed processor architecture have been shown to have enjoyed significant commercial success, with that commercial success have been derived directly from the claimed architecture.

D. CONCLUDING REMARKS

Applicant respectfully submits that the amendments, Declaration, remarks, and arguments presented herein have fully addressed all issues raised in the Final Action, and that the application will be in condition for allowance upon entry of the amendments. Accordingly, Applicant requests timely issuance of a Notice of Allowance.

Respectfully submitted on behalf of the
Applicants, by their agent:



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Enclosures:

1. Petition for three-month extension [1 page];
2. Request for Continued Examination [1 page]; and
3. Declaration of Jason Gosior [8 pages, including appendices].